

ORIGINAL



Memorandum
From the office of
Commissioner Andy Tobin
Arizona Corporation Commission
1200 W. WASHINGTON
PHOENIX, ARIZONA
(602) 542-3625

Arizona Corporation Commission
DOCKETED

JUL 14 2017

DOCKETED BY
[Signature]

TO: Docket Control

DATE: July 14th, 2017

FROM: Commissioner Andy Tobin's Office

SUBJECT: Doc. No. E-01345A-16-0036 & E-01345A-16-0123

Letter from Commissioner Andy Tobin in regards the Arizona Public Service Company's pending rate case before the Commission requesting the Settlement Agreement be made public.

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL
2017 JUL 14 P 4:07

COMMISSIONERS
TOM FORESE - Chairman
BOB BURNS
DOUG LITTLE
ANDY TOBIN
BOYD W. DUNN



ANDY TOBIN
COMMISSIONER

Direct Line: (602) 542-3625
Email: Tobin-Web@azcc.gov

ARIZONA CORPORATION COMMISSION

July 14, 2017

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

RE: APS Dockets E-01345A-16-0036 & E-01345A-16-0123

Dear Commissioners and Other Interested Parties:

I read with great interest an article about the pending rate case for Arizona Public Service Company (APS) that ran in last Sunday's *Arizona Republic* entitled "10 things to know ahead of regulators' solar vote." The story highlighted elements of a settlement agreement signed by 30 of the 40 parties to the rate case. Right now, the Administrative Law Judge presiding over the rate proceeding is writing a recommended opinion that she will submit to the full panel of commissioners for their consideration. All, some, or none of the settlement agreement may be included in that draft. The commissioners will also have the ability to accept, modify or reject the agreement as well.

An oft-repeated refrain in *Republic* reporting and editorials is "dark money," and its relation to Commission elections. I was not surprised that Sunday's story continued that narrative. What was curious to me, however, was that the article made no mention that a side agreement to the settlement exists. This side agreement is formally known as the "Joint Solar Parties Cooperation Agreement" (Cooperation Agreement).¹ While the contents of the Cooperation Agreement are confidential, APS has stated in multiple filings that it is between the utility, solar industry representatives, and solar advocates who "have agreed to refrain from undermining the [Settlement] Agreement through ballot initiatives, legislation, or other advocacy,"² including at the Commission.³ In connection with my review of the pending rate case, and as someone who has read the confidential agreement, I believe the people of Arizona deserve to

¹ See Post-Hearing Briefs of APS at 21.

² *Ibid.*

³ See Lockwood Settlement Direct Testimony at 3.

know what is in it, given that it involves the use or non-use of public processes of their government (e.g., ballot initiatives, legislation, or other advocacy).

I respectfully request that APS and the Energy Freedom Coalition of America (EFCA) jointly contact all of the signing parties to the Cooperation Agreement and ask whether they would support making the agreement public. I would like both parties to report back to the Commission via the docket by next Friday, July 21, 2017, noting each party's individual response to the following: 1) agreed to waive confidentiality; 2) did not agree to waive confidentiality; or 3) did not respond. Given that some of the parties are not publicly known, I understand that the report APS and EFCA will file in the docket must be redacted; however, I expect an un-redacted confidential copy to be submitted to every Commissioner.

Thanks for your anticipated cooperation.

A handwritten signature in black ink, appearing to read "Andy M. Tobin".

Andy Tobin
Commissioner

CERTIFICATION OF SERVICE

On this 14th day of July, 2017, the foregoing document was filed with Docket Control as a correspondence from Commissioner Andy Tobin, and copies of the foregoing were mailed on behalf of Commissioner Andy Tobin to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

Doc. No. E-01345A-16-0036 & E-01345A-16-0123

By: 
Nick Loper
Deputy Policy Advisor to Andy Tobin

Andy Kvesic
ARIZONA CORPORATION COMMISSION Director – Legal Division
1200 West Washington
Phoenix, Arizona 85007
LegalDiv@azcc.gov

Matthew Price
JENNER & BLOCK
1099 New York Avenue, NW, Suite 900
Washington, District of Columbia 20001-4412

Kurt Boehm
BOEHM, KURTZ & LOWRY
36 E. Seventh St. Suite 1510
Cincinnati, Ohio 45202

Nicholas Enoch
LUBIN & ENOCH, PC
349 N. Fourth Ave.
Phoenix, Arizona 85003

T. Hogan
ARIZONA CENTER FOR LAW IN THE PUBLIC INTEREST
514 W. Roosevelt Street
Phoenix, Arizona 85003

Daniel Pozefsky
RUCO
1110 West Washington, Suite 220
Phoenix, Arizona 85007

Greg Patterson
MUNGER CHADWICK
916 W. Adams Suite 3
Phoenix, Arizona 85007

Anthony Wanger
IO DATA CENTERS, LLC
615 N. 48th St
Phoenix, Arizona 85008

Mary O'Grady
OSBORN MALEDON, P.A.
2929 North Central Aveue, 21st Floor
Phoenix, Arizona 85012

John Moore, Jr.
MOORE BENHAM & BEAVER, PLC
7321 N. 16th Street
Phoenix, Arizona 85020

L. Robertson, Jr.
210 Continental Road, Suite 216A
Green Valley, Arizona 85622